

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

PERFICIENT, INC.,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:19-cv-01565-JAR
)	
THOMAS MUNLEY, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff’s Motion for Dismissal with Prejudice of Counts 3-8. (Doc. 76). Defendants object to the motion as to Counts VI and VII, arguing that this Court’s previous Order (Doc. 59) constituted a judgment of dismissal on these counts. (Doc. 78). Plaintiff replies that no judgment was entered pursuant to this Court’s previous Order and voluntary dismissal with leave of the Court is appropriate. (Doc. 79).

Plaintiff sought preliminary and permanent injunctive relief pursuant to various claims in its complaint. In a September 5, 2019 Order, this Court granted injunctive relief in part after an “expedited briefing schedule and combined hearing on the *preliminary and permanent injunctions*.” (Doc. 59 at 2) (emphasis added). The Order made findings of fact and conclusions of law but was not a judgment as to Counts VI and VII. The effect of the Order was solely to grant Plaintiff’s request for injunctive relief in part and enjoin Defendants from engaging in certain prohibited activities until May 1, 2020. (*Id.* at 22-23). The Eighth Circuit, upon review, did “not direct the [Court] to vacate as moot its Order dated September 5, 2019 granting a permanent injunction” and noted that the Order remained in effect “subject to modification (or vacating) by


the district court based on further pretrial and trial proceedings.” *Perficient, Inc. v. Munley*, No. 19-2951, 2020 WL 5247598, at *3 (8th Cir. Sept. 3, 2020).

At this point in the case, pursuant to Fed. R. Civ. P. 41, leave of court is required for voluntary dismissal. Because this Court agrees with Plaintiff that Counts VI and VII remained pending in this case following the September 5, 2019 Order, the Court will grant Plaintiff’s motion for voluntary dismissal.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff’s Motion for Dismissal with Prejudice of Counts 3-8 (Doc. 76) is **GRANTED**.

Dated this 9th day of October, 2020.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE